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FURTHER PROMOTION AND ENCOURAGEMENT OF HUMAN RIGHTS AND FUNDAMENTAL FREEDOMS, INCLUDING THE QUESTION OF THE PROGRAMME AND METHODS OF WORK OF THE COMMISSION

Australia*, Austria, Bangladesh, Brazil, Bulgaria*, Canada, Cape Verde, Chile, Costa Rica*, Côte d'Ivoire*, Croatia*, Cyprus*, Denmark, El Salvador, Finland*, Hungary*, Ireland, Italy, Japan, Latvia*, Liechtenstein*, Lithuania*, Luxembourg, Mexico, Netherlands*, New Zealand*, Norway*, Peru, Poland, Portugal*, Romania*, Spain*, Sweden*, Switzerland* and Tunisia: draft resolution

1998/... The elimination of violence against women

The Commission on Human Rights,

Reaffirming that discrimination on the basis of sex is contrary to the Charter of the United Nations, the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and other international human rights instruments, and that its elimination is an integral part of efforts towards the elimination of violence against women,

Recalling its resolutions 1994/45 of 4 March 1994, in which it decided to appoint a special rapporteur on violence against women, its causes and consequences, and 1997/44 of 11 April 1997 in which this mandate was renewed,

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* In accordance with rule 69, paragraph 3, of the rules of procedure of the functional commissions of the Economic and Social Council.

Welcoming the adoption by the General Assembly, in its resolution 48/104 of 20 December 1993, of the Declaration on the Elimination of Violence against Women, which recognizes that violence against women both violates and impairs or nullifies the enjoyment by women of human rights and fundamental freedoms, and expresses concern about the long-standing failure to protect and promote these rights and freedoms in relation to violence against women,

Recalling that the Vienna Declaration and Programme of Action adopted by the World Conference on Human Rights (A/CONF.157/23) affirmed that gender-based violence and all forms of sexual harassment and exploitation, including those resulting from cultural prejudice and international trafficking, are incompatible with the dignity and worth of the human person and must be eliminated,

Noting General Assembly resolution 52/99 of 12 December 1997 in which the Assembly, inter alia, reaffirmed that traditional or customary practices affecting the health of women and girls constitute a definite form of violence against women and girls and a serious form of violation of their human rights,

Deeply concerned that some groups of women, such as women belonging to minority groups, indigenous women, refugee women, migrant women, women living in rural or remote communities, destitute women, women in institutions or in detention, the girl child, women with disabilities, elderly women and women in situations of armed conflict, are especially targeted and vulnerable to violence,

Reiterating that acts of sexual violence in situations of armed conflict constitute grave breaches of international humanitarian law,

Stressing that the implementation of the Convention on the Elimination of All Forms of Discrimination against Women will contribute to the elimination of violence against women and that the implementation of the Declaration on the Elimination of Violence against Women strengthens and complements this process, and welcoming the Beijing Declaration and Platform for Action (A/CONF.177/20, chap. I) and follow-up action such as the agreed conclusions adopted by the Commission on the Status of Women at its forty-second session on violence against women, women and armed conflict and the human rights of women, and the Model Strategies and Practical Measures on the Elimination of Violence against Women in the field of Crime Prevention and Criminal Justice adopted by the General Assembly by its resolution 52/86 of 12 December 1997,

Noting with appreciation the Special Rapporteur's active participation at the forty-second session of the Commission on the Status of Women,

Bearing in mind that the Vienna Declaration and Programme of Action calls for action to integrate the equal status and human rights of women into the mainstream of United Nations system-wide activity, stresses the importance of working towards the elimination of violence against women in public and private life, and urges the eradication of all forms of discrimination against women,

1. Welcomes the report of the Special Rapporteur on violence against women, its causes and consequences (E/CN.4/1998/54 and Add.1), and encourages her in her future work;

2. Commends the Special Rapporteur for her analysis of violence in the family, violence in the community, and violence as perpetrated and/or condoned by the State;

3. Condemns all acts of gender-based violence against women and in this regard calls, in accordance with the Declaration on the Elimination of Violence against Women, for the elimination of gender-based violence in the family, within the general community and where perpetrated and/or condoned by the State, and emphasizes the duty of Governments to refrain from engaging in violence against women and to exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women and to take appropriate and effective action concerning acts of violence against women, whether those acts are perpetrated by the State, by private persons or by armed groups or warring factions, and to provide access to just and effective remedies and specialized, including medical, assistance to victims;

4. Also condemns all violations of the human rights of women in situations of armed conflict, recognizes them to be violations of international human rights and humanitarian law and calls for a particularly effective response to violations of this kind, including in particular murder, rape including systematic rape, sexual slavery and forced pregnancy;

5. Encourages Governments to support efforts to create an international criminal court that integrates a gender perspective in its statute and functioning, enabling a gender-sensitive interpretation and application of the statute;

6. Requests all Governments to cooperate with and assist the Special Rapporteur in the performance of the tasks and duties mandated, to supply all information requested and to respond to the Special Rapporteur's visits and communications;

7. Welcomes the efforts by the Special Rapporteur to seek information from Governments concerning specific cases of alleged violence in order to identify and investigate situations of violence against women, its causes and its consequences, in particular, where appropriate, by sending joint urgent appeals and communications with other special rapporteurs;

8. Requests human rights treaty bodies, other special rapporteurs responsible for various human rights questions, United Nations bodies and organs, specialized agencies and intergovernmental and non-governmental organizations, including women's organizations, to cooperate with and assist the Special Rapporteur in the performance of her mandated tasks and duties in particular to respond to her requests for information on violence against women, its causes and its consequences, and to address the issue of violence against women in custody and in times of armed conflict;

9. Stresses the conclusions and recommendations of the Special Rapporteur that States have an affirmative duty to promote and protect the human rights of women and must exercise due diligence to prevent violence against women, including violence against women in times of armed conflict, violence against women in custody and violence against refugee and internally displaced women, and calls upon States:

(a) To work actively to ratify and/or implement international human rights norms and instruments as they relate to violence against women, and to comply with the Standard Minimum Rules for the Treatment of Prisoners;

(b) To include in reports submitted in accordance with the provisions of relevant United Nations human rights instruments gender-disaggregated data, whenever possible, information pertaining to violence against women and measures taken to implement the Declaration on the Elimination of Violence against Women and the Beijing Platform for Action;

(c) To condemn violence against women and not invoke custom, tradition or practices in the name of religion to avoid their obligations to eliminate such violence;

(d) To enact and, where necessary, reinforce or amend penal, civil, labour and administrative sanctions in domestic legislation to punish and

redress the wrongs done to women and girls subjected to any form of violence, whether in the home, the workplace, the community or society, in custody or in situations of armed conflict, and to ensure that they conform with relevant international human rights instruments and humanitarian law;

(e) To adopt laws, where necessary, and reinforce existing laws that punish police, security forces or any other agents of the State who engage in acts of violence against women in the course of the performance of their duties, and to review existing legislation and take effective measures against the perpetrators of such violence;

(f) To cooperate with the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia in the apprehension and prosecution of individuals indicted for gender-related crimes and all other crimes within their jurisdiction;

(g) To protect children, especially the girl child, in situations of armed conflict against participation, recruitment, rape and sexual exploitation and abuse through adherence to the applicable principles of international human rights and humanitarian law;

(h) To create, improve or develop, as appropriate, and fund training programmes for judicial, legal, medical, social, educational, police, military, peacekeeping and immigration personnel, in order to avoid the abuse of power leading to violence against women and sensitize such personnel to the nature of gender-based acts and threats of violence so that fair treatment of female victims can be ensured;

(i) To mainstream a gender perspective, as appropriate, into national immigration and asylum policies, regulations and practices, in order to extend protection to those women whose claim for protection is based on gender-related persecution;

(j) To examine and consider modifying existing legal definitions and standards to ensure that they fully protect the human rights of all women and girls affected by armed conflict, and to reaffirm that rape, including systematic rape, and sexual slavery in armed conflict constitute war crimes, and under certain circumstances constitute crimes against humanity and an act of genocide as defined in the Convention on the Prevention and Punishment of the Crime of Genocide;

(k) To take account of the impact of armed conflict on the health of all women and introduce measures to address the full range of women's health

needs, including those of women with disabilities, and the psychological needs arising from trauma stemming from sexual abuses and the effects of violations of their rights;

10. Reminds Governments that their obligations under the Convention on the Elimination of All Forms of Discrimination against Women must be fully implemented with regard to violence against women, taking into account General Recommendation No. 19, adopted by the Committee on the Elimination of Discrimination against Women at its eleventh session, and calls upon those States which are still not parties to the Convention to work actively towards ratification of or accession to it so that universal ratification can be achieved by the year 2000;

11. Calls upon States to eradicate traditional or customary practices, particularly female genital mutilation, that are harmful to or discriminatory against women and that are violations of human rights and fundamental freedoms of women through the development and implementation of national legislation and policies prohibiting such practices, the prosecution of perpetrators of such practices, and awareness-raising programmes, education and training;

12. Requests the Secretary-General to make available to the Commission on Human Rights at its fifty-fifth session and the Commission on the Status of Women at its forty-third session his report to the General Assembly at its fifty-third session on the implementation of Assembly resolution 52/99;

13. Requests Governments to support initiatives of women's organizations and non-governmental organizations all over the world to raise awareness of the issue of violence against women and to contribute to its elimination;

14. Renews its request to the Secretary-General to continue to provide the Special Rapporteur with all necessary assistance, in particular the staff and resources required to perform all mandated functions, especially in carrying out and following up on missions undertaken either separately or jointly with other special rapporteurs and working groups, and adequate assistance for periodic consultations with the Committee on the Elimination of Discrimination against Women and all other treaty bodies;

15. Invites the Special Rapporteur to continue to cooperate with other special rapporteurs, special representatives, independent experts and

chairpersons of the working groups of the special procedures of the Commission on Human Rights, including, where appropriate, undertaking joint missions and writing joint reports;

16. Requests the Secretary-General to ensure that the reports of the Special Rapporteur are brought to the attention of the Commission on the Status of Women at its forty-third session, as well as to the attention of the Committee on the Elimination of Discrimination against Women;

17. Decides to continue consideration of the question as a matter of high priority at its fifty-fifth session.